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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,740	11/20/2000	Peter Worthington Hamilton	5922R2C3	8924

27752 7590 06/27/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/716,740

Applicant(s)

HAMILTON ET AL.

Examiner

Victor S. Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15, 17, 18, 38-52, 54, 55, 75, 80, 81 and 86-102 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17, 18, 38-52, 54, 55, 75, 80, 81 and 86-102 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Introduction

1. Applicants' remarks filed on 5/12/2006 have been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Applicants stated that claims 1-5, 17,18, 38-50, 52, 54, 55, 75, 80, 81, 86-102 are pending (Remarks, page 9). It should be noted that claims 6-15 and 51 are pending as well.

Rejections Based on Prior Art

4. Claims 1-15, 17,18, 38-52, 54, 55, 75, 80, 81 and 86-102 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilbur (US 2338749) in view of Sanders (US 5344693) and Applicants' admitted prior art.

Wilbur's invention relates to wrappers of flexible paper or other equivalent sheet material (col. 1, lines 1-3). Wilbur teaches that the invention can be embodied in a label, wrapper, envelope (enclose) or other article of flexible sheet material intended for other uses (page 1, col. 2, lines 34-37). Fig. 7 shows an embodiment in which a multiplicity of pin punctures 16. Each puncture is surrounded by an outstanding tubular burr (protrusion) 17, and surrounded by a coating of permanently sticky or tacky adhesive 18. The outstanding burrs 17 serve as means for normally shielding the adhesive coating against accidental contact with other objects. When end portions are overlapped and pressed together, the burrs or bosses 17 are collapsed, the ends are united by the adhesive (page 2, col. 1, line 48 through col. 2, line 8).

Sanders' invention is directed to a spacing means for a web of material. The spacing means is capable of maintaining separation of a surface carrying an adhesive and an adjacent surface until it is required that the two surfaces shall unite one with another by the adhesive (col. 1, lines 10-13 and 60-62). In Fig. 4, Sanders clearly shows a spacing means as non-adherent protrusions being surrounded by adhesive as claimed (col. 2, lines 16-18).

It would have been obvious to one of ordinary skill in the art to modify Wilbur's wrapper with Sander's non-adherent protrusions with a reasonable expectation of success at the time the invention was made, motivated by the desire to obtain a wrapper having an alternative suitable spacing means. It should be noted that the substitution of a known equivalent material based on its suitability for its intended use supported a *prima facie* obviousness determination. See MPEP § 2144.07. As to the wrapper's thickness and physical properties (conformable and low resiliency), it is noted that Applicants have admitted that sheet materials with clinging character (cling film) for forming a closure for a container (conformable) is known (specification, page 1, lines 18-26). As such, it would have been obvious to one of ordinary skill in the art to modify the wrapper of prior art with a suitable thickness for desired conforming property, and a known sheet material of suitable physical properties for wrapping, as admitted by Appellants, with a reasonable expectation of success at the time the invention was made, motivated by the desire to obtain a conformable wrapper to fully enclose a container.

Response to Arguments

5. Applicants argue that the thickness limitation appears in none of the references as necessary or desirable but is an element of the invention as claimed (Remarks, page 9).

However, Applicants' admitted known art cling film for forming a closure for a container suggests a suitable thickness is required for wrapping around the opening of a container.

Applicants argue that there is no basis in the references to believe that a conformable monolayer film will retain the same level of conformability after the addition of an adhesive layer and the addition of the structural spacing means (Remarks, page 9). However, since the combined teachings of prior art render the structure of the present invention obvious, in the absence of unexpected results, a suitable conformability would have been an obvious optimization of film thickness and/or selection of known cling film material, motivated by the desire to obtain required properties for wrapping around the opening of a container.

Applicants' argue that the references do not teach or suggest the combination of features such as a material having a thickness in the range from about 0.0001 inches to about 0.0002 inches will also always be sufficiently flexible to conform readily to desired surface and have sufficiently small resiliency that it will not exert undue restorative forces that would tend to cause said sheet of material to break contact with desired surface, etc. (Remarks, page 10). However, these features are either anticipated by a cling film, or obvious optimization for desired conformability. Since Applicants have failed to provide any evidence why the prior art references are not combinable, and the motivations for combining the prior art have been clearly provided, Applicants argument is not persuasive.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor S. Chang whose telephone number is 571-272-1474. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Victor S Chang
Examiner
Art Unit 1771

6/15/2006


TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700